



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
525 NE Oregon Street
PORTLAND, OREGON 97232-2737

DEC -4 2003

MEMORANDUM FOR: D. Robert Lohn
Regional Administrator
Robert G. Walton
FROM: Robert G. Walton, Assistant Regional Administrator
Salmon Recovery Division
SUBJECT: Siltcoos and Tahkenitch Lakes Coho Salmon Fisheries
Management and Evaluation Plan (FMEP) submitted by the
Oregon Department of Fish and Wildlife Affecting Oregon Coast
coho salmon ESU Under Limit 4 of the Endangered Species Act
4(d) Rule (50 CFR 223.203(4)) - DECISION MEMORANDUM

NATIONAL MARINE FISHERIES SERVICE TRACKING NUMBERS: NWR/4d/04/2003/002

PURPOSE

The Oregon Department of Fish and Wildlife (ODFW) has submitted a Fisheries Management and Evaluation Plan (FMEP) for review and determination by NOAA's National Marine Fisheries Service (NMFS) under Limit 4 of the Endangered Species Act (ESA) 4(d) Rule (50 CFR 223.203(b)(4))(July 10, 2000, 65 FR 42422). The FMEP proposes a harvest, in years of high abundance, of coho salmon returning to Siltcoos and Tahkenitch Lakes, located south of Florence, along the Oregon Coast (ODFW 2003). The fishery described in the FMEP will affect the threatened Oregon Coast coho salmon ESU.

RECOMMENDATION

The NMFS Salmon Recovery Division (SRD) has evaluated the FMEP, and finds that the FMEP adequately address the criteria established in Limit 4 of the ESA 4(d) Rule. The SRD recommends that the Northwest Regional Administrator approve the FMEP, with the result that take prohibitions would not apply to fisheries implemented in accordance with the approved FMEP and NMFS' letter of concurrence.

BACKGROUND

Limit 4 of the NMFS' ESA section 4(d) Rule for 14 threatened salmonid ESUs contains a "fisheries harvest activities" limit that provides that the prohibitions of section 9(a)(1) of the

Siltcoos and Tahkenitch Lakes FMEP Decision Memo



ESA do not apply to fisheries harvest activities that adequately address the criteria of that limit and have been approved by NMFS.

Approval of this FMEP under the 4(d) Rule would allow ODFW to conduct a fishery on naturally produced coho salmon returning to Siltcoos and Tahkenitch Lakes, located along the central Oregon Coast. The coho salmon runs in these lakes are abundant and productive. The ODFW would conduct a limited coho salmon fishery in these lakes in years when returns were high and exceeded the specified escapement thresholds. The fishery in these lakes is designed so that cumulative harvest impacts from ocean and freshwater fisheries will not exceed the limits specified in Amendment 13 of the Pacific Salmon Plan, which NOAA Fisheries has approved via a section 7 consultation with the Pacific Fishery Management Council for listed coho salmon.

DISCUSSION

Controversial Issues

Since natural-origin coho salmon will be targeted and harvested, this fishery is potentially controversial. NOAA Fisheries has received comments on the fishery from the public during two public comments periods. A public meeting was also held to discuss questions and issues raised on the fishery proposal. There is strong support by anglers and the local businesses to implement the fishery. One conservation group is opposed to the fishery. All of the substantive public comments were addressed in the final document

There is no known litigation or potential litigation associated with this FMEP.

Public Review and Comment

NMFS published notices in the Federal Register of the availability for the FMEP and Environmental Assessment (EA) for public review and comment (August 29, 2003, 68 FR 51995, and October 24, 2003, 68 FR 60915).

Many public comments were received during the review periods. Most of the comments supported the fishery proposal. However there were a few commenters that did not support the proposal. NMFS and ODFW held a public meeting to discuss the issues raised by the public. There were several revisions to the FMEP and EA to incorporate the public comments. It is believed all of the substantive comments that could be addressed were included in the FMEP and/or NMFS' evaluation of the proposal (Attachments 1-3 to the EA).

Evaluation of the FMEP under the ESA 4(d) Rule

Attachment 1 is SRD's evaluation of whether or not the FMEP adequately address all of the requirements established under Limit 4 of the ESA 4(d) Rule for Oregon Coast coho salmon.

The SRD has determined that the FMEP provided by the ODFW adequately addresses all of the requirements in Limit 4 of the ESA 4(d) Rule.

Evaluation of Federal Actions under the ESA Section 7 and the Magnuson-Stevens Act Essential Fish Habitat

The Federal action germane to evaluation and determination is NMFS' determination of whether or not the plan adequately addresses ESA 4(d) Rule criteria and qualifies for limits on section 9 take prohibitions. The SRD prepared an ESA section 7 biological opinion to evaluate the effects of the action on the listed Oregon Coast coho salmon ESU (Attachment 2). The SRD also analyzed the effects of the actions on Essential Fish Habitat (EFH) under the Magnuson-Stevens Act, and this is included in the Biological Opinion (see Attachment 2).

Based on the SRD's analysis, including the evaluation of monitoring and evaluation actions implemented through the FMEP, in the SRD's ESA 4(d) Rule evaluation and determination document (Attachment 1), and the biological opinion (Attachment 2), the proposed Federal action is not likely to jeopardize the continued existence of listed Oregon Coast coho salmon. Adequate measures are proposed to monitor fishery catch and the status of the affected population.

The SRD further determined that the effects of the action on EFH are likely to be within the ranged of effects considered in the ESA portion of the opinion, and concluded that the proposed actions are likely to adversely affect Pacific salmon EFH, to the extent that a portion of the coho salmon returning to the two lakes could be intercepted by fisheries. This decision memorandum constitutes NMFS' statutory response requirement regarding its own recommendations on EFH conservation recommendations.

Evaluation of NMFS' Proposed Determination under NEPA

As NEPA requires, NMFS completed an Environmental Assessment to evaluate the effects on the human environment of its proposed evaluation and determination of whether or not the FMEPs adequately addresses the ESA 4(d) Rule Limit 4 criteria, and therefore qualifies for limitation of take prohibitions. NMFS reviewed the effects of the proposed action on physical, biological, and socioeconomic resources in the EA (Attachment 3). NMFS found that the proposed action would not significantly affect the quality of the human environment (Finding of No Significant Impact, November 28, 2003).

FMEP Effects on the Likelihood of Oregon Coast Coho Salmon Survival and Recovery

To be consistent with Limit 4 of the 4(d) Rule, the Secretary of Commerce (Secretary) must determine pursuant to 50 CFR 223.209 that the fisheries described in the FMEP will not appreciably reduce the likelihood of survival and recovery of the Oregon Coast coho salmon

ESU. Biological analyses supporting a determination that the FMEP will not appreciably reduce the likelihood of survival and recovery of the listed Oregon Coast coho salmon ESU are presented in SRD's evaluation documents (Attachments 1-3) and summarized here.

FMEP Effects

A fishery would be implemented in years when the returns of coho salmon are high and exceed escapement thresholds specified in the FMEP. The goal is to have at least 3,300 and 2,200 adults spawning annually in Siltcoos and Tahkenitch Lake Basins, respectively, after any fishery occurs. These escapement levels are estimated to be the maximum sustained production level for these runs (ODFW 2003). Overall exploitation rates on these coho salmon populations from ocean and freshwater fisheries would be limited to the harvest rates specified in the Amendment 13 of PFMC's Pacific Salmon Plan (PFMC 2003). Further information on this harvest matrix is described in the FMEP. The minimum escapement thresholds for the runs in Siltcoos and Tahkenitch Lakes would likely maintain sufficient escapement in order to minimize deleterious genetic and demographic effects to this coho salmon population.

For the above reasons, the SRD recommends a NMFS determination that Siltcoos and Tahkenitch Lakes coho salmon FMEP will not likely appreciably reduce the likelihood of survival and recovery of the Oregon Coast coho salmon ESU.

Implementation and Reporting Requirements

Criterion (iv) of 4(d) Rule Limit 4 requires that NMFS provide written concurrence with the plan and specify implementation and reporting requirements (if any). NMFS' determination on the FMEP depends upon implementation of all of the monitoring, evaluation, and reporting tasks or assignments included in the FMEP to assess impacts on listed coho salmon and shall be conducted as described in the FMEP.

The FMEP details the performance indicators for that include fish population indicators and fishery indicators. The fish population indicators and the fishery indicators are described in the attached ERD documents. These will be monitored and evaluated on an annual basis. Reports will be provided to NMFS, and will include biological and fishery information from the previous year and an assessment of how the fisheries performed with respect to the objectives and guidelines established in the FMEP. Annual reports will be submitted by June 1st of each year to:

Salmon Recovery Division, NMFS
525 NE Oregon Street, Suite 510
Portland, Oregon 97232-2737

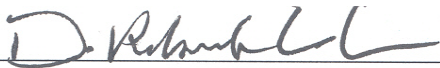
In addition, comprehensive reviews of the FMEPs are scheduled to occur, at a minimum, every 3 years to evaluate whether the fishery and natural population are performing as expected. The

comprehensive reviews will allow management assumptions to be further verified and allow new information or findings to be incorporated into the FMEP. This includes the determinations from formal recovery planning efforts and by the Technical Recovery Team.

SUMMARY

The NMFS Northwest Region's SRD concludes that the FMEP for the Siltcoos and Tahkenitch Lakes coho salmon fishery provided by ODFW adequately addresses all of the criteria for an FMEP under Limit 4 of the ESA 4(d) Rule and therefore, that fisheries implemented pursuant to this FMEP would not appreciably reduce the likelihood of survival and recovery of the Oregon Coast coho salmon ESU. As described above, all of the necessary administrative and biological requirements have been met for NMFS' concurrence with the FMEP. The FMEP describes management actions that will provide for meaningful harvest opportunities within the context of rigorous protection of ESA-listed species along the Oregon Coast. The SRD recommends that the FMEP be approved for take limitations under Limit 4 of the ESA 4(d) Rule, and that take prohibitions would therefore not apply to fisheries implemented in accordance with the FMEP's own implementation and reporting measures. The SRD recommends that you concur with the implementation of the FMEP.

1. I concur with ODFW's Siltcoos and Tahkenitch Lakes coho salmon FMEP, provided that it is implemented in accordance with the implementation and reporting measures as summarized in the FMEP.



 D. Robert Lohn
 Regional Administrator



 Date

2. I do not concur with ODFW's implementation of the Siltcoos and Tahkenitch Lakes coho salmon FMEP.

 D. Robert Lohn
 Regional Administrator

 Date

Attachment 1: Evaluation and Recommended Determination Document

Attachment 2: Section 7 Biological Opinion

Attachment 3: NEPA Finding of No Significant Impact, Environmental Assessment, and EA attachments

Literature Cited

ODFW (Oregon Department of Fish and Wildlife). 2003. Fisheries Management and Evaluation Plan. Oregon Coastal Coho, Siltcoos and Tahkenitch Lakes Coho Fishery. Salem, Oregon November 2003.

PFMC (Pacific Fishery Management Council). 2003. Amendment 13 to the Pacific Coast Salmon Plan. Hard copies available from Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220. Website: www.pcouncil.org